

In the United States Court Of Appeals for the
Third District of Pennsylvania

Henry T. Rollie,	:	Civil Action No. 05-132 Erie
Plaintiff	:	
v.	:	Notice of Appeal
Raymond Colleran, et. al.,	:	
Defendants	:	

Notice is hereby given that the plaintiff, in the above named case, hereby appeals to the United States Court of Appeals for the Third Circuit, from the final judgement from an Order issued by the United States District Judge Sean J. McLaughlin and Magistrate Judge Susan Paradise Baxter, denying Plaintiff's §2254 Writ of Habeas Corpus Petition.

Respectfully Submitted,


Henry Rollie

Verification

I, the undersigned, verify that the above statements are true and correct, and that any false statements herein are made subject to 18 P.A.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 12-4-06

Signed: Henry Rollie
Henry Rollie

Proof of Service

I hereby certify that on 12-4-06, I served a copy of this **Notice of Appeal** upon the persons involved in this matter indicated below.

Service by First Class Mail

United States District Court
Western District of Pennsylvania
Judge Sean J. McLaughlin
17 South Park row, Room A250
Erie, PA 16501

Chief United States Magistrate Judge
Susan Paradise Baxter
17 South Park Row, Room A280
Erie, PA 16501

Roger M. Bauer
Office of the District Attorney
Erie County Courthouse
140 West 6th Street
Erie, PA 16501

Date: 12-4-06

Signed: Henry Rollie
Henry Rollie

Application for
Certificate of Appealability

In this present application for a certificate of appealability, Petitioner demonstrates and/or shows the denial of a constitutional right as relative to this case.

Under 28 U.S.C.A. §2253 (c)(2) as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), a certificate of appealability may be issued only if the applicant has made a substantial showing of the denial of a constitutional right. Pursuant to this standard, a petition must show, "that reasonable jurists would find the District Court's assessment of the constitutional claims debatable or wrong".

Simms V. Carrol, 2006 WL 1523053, 2D. Del.(2006), citing 28 U.S.C.A. §2253 (c)(2); Slack v. McDaniel, 529 U.S. 473, 484 S.Ct. 1595, 196 L.Ed. 2d 542 (2000)

Moreover, the substantial showing language is nearly identical to that set forth by the Supreme Court of the United States in Barefoot v. Estelle, 103 S.Ct. 3383 (1983), which required a substantial showing of the denial of a federal right. ID. (emphasis added), "An issue is considered to meet the "substance" requirement if it is such that is controversial in that it is of legally debatable significance which justifies additional examination.".

Barefoot v. Estelle, 103 S.Ct. 3383 (1983)

Further, each claim as to which a petitioner wishes to institute on appeal, must be scrutinized in accordance with that standard and a court must specify which issues may be entertained on appeal. Issuance of a C.O.A. is jurisdictional in that, as this court has said, it serves to define the court's subject-matter jurisdiction in a given case. See **U.S.C. §2253 (c)(3)**, where, "The Certificate of Appealability... shall indicate which specific issue or issues satisfy the showing required...", and Morris v. Horn, 187 F.3d 333, 339 (3rd Cir. 1999).

Although there are a number of circumstances under this standard for the granting of a Certificate of Appealability, Petitioner has comprehensively and properly pled in this

application the circumstances known to him. Therefore, since the petitioner has met the requirements as set forth in **28 U.S.C §2253 (c)(2)**, a Certificate of Appealability should be issued.

~~ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED~~

Henry T. Rollie #GU-0341
P.O. Box 256
Waymart, PA 18472

United States Court of Appeals
For the Third Circuit
U.S. Courthouse
601 Market Street, Rm. 21400
Philadelphia, PA 19106-1790
Clerk Marcia M. Waldron

Re: Henry T. Rollie v. Raymond Collieran
Civil Action No. 05-132Erie

Please find enclosed: Notice of Appeal to the United States Court of Appeals for the Third Circuit from the final judgement from an Order issued by the United States District Court. Please file of record in the matter referenced above.

Sincerely,


Henry Rollie

FILED
DEC 13 10 38
CLERK
U.S. DISTRICT COURT